

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

XIAORONG LAN,

Plaintiff,

VS.

UNIVERSITY OF TEXAS AT SAN ANTONIO; DR. JUAN MANUEL SANCHEZ, ASSOCIATE DEAN; CARLOS ALVAREZ COLLEGE OF BUSINESS; and HARRISON LIU, PHD, ADVISOR, CARLOS ALVAREZ COLLEGE OF BUSINESS,

Defendants.

[Decorative flourish]

CIVIL ACTION NO. SA-22-CV-769-FB

ORDER ACCEPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

The Court has considered the Report and Recommendation of United States Magistrate Judge filed in the above styled and numbered cause on April 24, 2023 (docket #33), and Plaintiff's Motion for Objection to Report and Recommendation of United States Magistrate Judge filed on May 5, 2023 (docket #42).

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of them. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Memorandum and Recommendation and determine whether they are either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989).

On the other hand, any Report or Recommendation to which there are objections requires de novo review by the Court. Such a review means that the Court will examine the entire record, and will

make an independent assessment of the law. The Court need not, however, conduct a de novo review when the objections are frivolous, conclusive, or general in nature. *Battle v. United States Parole Commission*, 834 F.2d 419, 421 (5th Cir. 1987).

In the Report, Magistrate Judge Chestney recommends to this Court that Plaintiff's Title VII hostile work environment claim and her Title VII claims for discrimination based on race, color, gender, and religion be dismissed and that Plaintiff's Title VII national origin discrimination and retaliation claims be allowed to proceed. In addition, because the Court has, on this same date, accepted the previous Recommendation (docket #9), Magistrate Judge Chestney recommends further that this Court decline to exercise supplemental jurisdiction over the state-law claims against Dr. Juan Manuel Sanchez and Dr. Harrison Liu for negligence and related to violations of the Texas Educators' Code of Ethics and to dismiss all of state-law claims without prejudice to refiling.

The Court has reviewed the Plaintiff's objections and conducted a de novo review of those issues raised by the Plaintiff. The Court finds, after careful consideration of the record and the Report and Recommendation, that the objections lack merit. Therefore, this Court hereby accepts, approves, and adopts the Magistrate Judge's factual findings and legal conclusions contained in the Report and Recommendation filed on April 24, 2023 (docket #33). The Report and Recommendation shall be accepted pursuant to 28 U.S.C. § 636(b)(1) such that Defendant the University of Texas at San Antonio's Motion to Dismiss Plaintiff's Third Amended Complaint (docket #22) shall be: (1) GRANTED IN PART such that Plaintiff's Title VII hostile work environment claim and her Title VII claims for discrimination based on race, color, gender, and religion shall be DISMISSED WITH PREJUDICE; and (2) DENIED IN PART as to Plaintiff's Title VII national origin discrimination and retaliation claims; and (3) this Court shall decline to exercise supplemental jurisdiction over the

state-law claims against Dr. Juan Manuel Sanchez and Dr. Harrison Liu for negligence and related to violations of the Texas Educators' Code of Ethics and all state-law claims shall be DISMISSED WITHOUT PREJUDICE.

Accordingly, it is hereby ORDERED that the Report and Recommendation of United States Magistrate Judge, filed in this case on April 24, 2023 (docket #33), is ACCEPTED such that Defendant the University of Texas at San Antonio's Motion to Dismiss Plaintiff's Third Amended Complaint (docket #22) is: (1) GRANTED IN PART such that Plaintiff's Title VII hostile work environment claim and her Title VII claims for discrimination based on race, color, gender, and religion are DISMISSED WITH PREJUDICE; and (2) DENIED IN PART as to Plaintiff's Title VII national origin discrimination and retaliation claims; and (3) this Court declines to exercise supplemental jurisdiction over the state-law claims against Dr. Juan Manuel Sanchez and Dr. Harrison Liu for negligence and related to violations of the Texas Educators' Code of Ethics and all state-law claims are DISMISSED WITHOUT PREJUDICE.

It is so ORDERED.

SIGNED this 16th day of September, 2023.



FRED BIERY
UNITED STATES DISTRICT JUDGE